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TAGS: [PGOV](#) [KDEM](#) [IZ](#)
SUBJECT: DE-ESCALATING THE DE-BAATHIFICATION DEBATE: POST
ELECTION VETTING GAINS TRACTION

REF: A. BAGHDAD 109
[B](#). BAGHDAD 110
[C](#). BAGHDAD 113

Classified By: A/DCM Gary A. Grappo for reasons 1.4 (b) and (d)

[1](#)1. (C) SUMMARY: Iraqi political leaders appear to be looking for a face-saving way to step back from the furor created by the purported Accountability and Justice Commission's (AJC) efforts to exclude electoral candidates under the provisions of the de-Ba'athification law. The ISCI-led Iraqi National Alliance (INA) MP Qassim Daoud told poloff January 17 that Ayatollah Sistani was eager to de-escalate tensions between political actors, and sent his son to meet UN SRSG Melkert on January 16. INA's proposed solution, involving a pre-election pledge of allegiance to the Constitution and renunciation of the Ba'ath, and post-election vetting of candidates, seems to be gaining traction. MP Hadi al-Amiri (INA) told A/DCM he will advocate this strategy with the Prime Minister on January 18 and with the Kurdish leadership on the 19th. PM appears to be willing to continue pushing IHEC to postpone publication of the AJC's de-Ba'athification list, while a political solution is found. IHEC received a new list from the AJC late on January 18, and told poloff it would not publish before January 20. The Embassy will continue to coordinate closely with UNAMI to ensure we are lashed-up on our approach. END SUMMARY.

AJC - IHEC DE-BA'ATHIFICATION LIST ON HOLD FOR NOW

[1](#)2. (C) The latest Accountability and Justice Commission (AJC) list of candidates for exclusion that the embassy has been able to evaluate, from January 16, is nearly unchanged from the January 14 version. Several high-profile political leaders on the January 14 list were dropped, including Defense Minister Abd al-Qadir al-Mufrigi al-Ubaidy (Sunni/SLA), GOI Spokesman Ali al-Dabbagh, and MPs Abdullah Salim (Sunni/independent), Ahmad al-Shimmari (Sunni/Coalition of Iraq's Unity) and Muna Salih Mahdi (Shia/Badr). Salih Mutlaq is the only remaining MP on the January 16 list, however, several high-profile tribal figures remain. IHEC Deputy Chairwoman Amal al-Bayraktar told poloff January 18 that it received a list of 511 names late that day, and noted that the "IHEC board is likely to accept this list as is." She said the list would not be published January 19 because of its late arrival, and noted it might be published in newspapers on January 20. The embassy will analyze this list as soon as it receives a copy from IHEC.

[1](#)3. (C) Senior adviser to PM Maliki Sadiq Rikabi told A/DCM late on January 18 that, "in the absence of legal authority to stop the list," the PM had used his moral authority to convince IHEC to delay publication of the list. Rikabi said he planned to continue advising the PM to hold the line until a solution could be found.

TALKING TOUGH AGAINST THE BA'ATHISTS IN AN ELECTION YEAR

¶4. (C) On January 17, ISCI Chairman Ammar al-Hakim told Ambassador that the Iraqi National Alliance (INA) coalition had tried to work with Salih Mutlaq to encourage him to moderate his unhelpful, pro-Ba'athist rhetoric. He lamented that Mutlaq did not heed this advice, and said that the video clip of Mutlaq's infamous July 22, 2008 speech in parliament "casting a vote for the Ba'ath" was again making the rounds on cell phones, further inflaming Iraqi public opinion. ISCI-allied Badr bloc leader Hadi-Amiri joked to A/DCM that INA would benefit from Mutlaq staying in the race, as he QINA would benefit from Mutlaq staying in the race, as he energizes its core constituents with his outrageous statements. Conversely, he noted that Sunni parties want Mutlaq out because he is a serious competitor for them.

¶5. (C) Hakim told the Ambassador that ISCI and other predominantly Shi'a parties risked the support of their core constituents when trying to moderate the debate. He cautioned that moderates in particular will not be able to assist in solving the current situation without being accused of being weak on or supportive of Ba'athists. Rikabi told A/DCM on January 18 that the PM had to tread carefully on this issue in an election year, because he would likely be eviscerated by extremist opponents and media outlets if he intervened too obviously to resolve the AJC's action.

INA PROPOSAL: PLEDGE OF ALLEGIANCE AND POST-ELECTION VETTING

¶6. (C) Hakim told the Ambassador that INA, led by Badr bloc leader Hadi al-Amiri, had developed a two-stage proposal as a way out of the crisis: first, all those candidates included

on the AJC's de-Ba'athification list should sign a statement disavowing the Ba'ath Party, condemning the crimes of Saddam Hussein, and committing to uphold the Iraqi Constitution. He stressed that whoever wanted to be a part of the political process must swear loyalty to the constitution, and that those unwilling to make such a statement "would cast their own fate." (NOTE: Amiri subsequently told A/DCM on January 18 that after further review, he decided that this initiative would have to include a pledge from the candidate's party to accept the results of the post-election vetting, and commitment to substitute another party/coalition member after the election in place of the disqualified candidate. Interlocutors have been unclear about whether any replacement candidate -- as next highest vote-getter -- would get the seat from the disqualified candidate, or whether he would have to be from the same party or from the broader coalition list. END NOTE.)

¶7. (C) In light of the "questionable legitimacy" and conflict of interest posed by an AJC led by Ahmed Chalabi and Ali Faisal al-Lami (both candidates for the election), Hakim said that a possible consensus-based alternative would be to have the main Iraqi political coalitions (Kurdish Alliance, SLA, INA, Iraqiyya, Tawafuq and CIU) get together as soon as possible to review the names barred from the election by the AJC. This group would determine who should be barred versus those who could be integrated into the political process and allowed to run in the upcoming national election. Hakim said that he prefers to resolve this matter now and not wait until after elections, noting that if these individuals are allowed to run in the election and are then disqualified, those constituents who voted for them would in essence have lost their votes. Amiri told A/DCM January 18 that if this new review structure couldn't be made to work soon, his side would be open to post-election vetting of candidates. (COMMENT: What Amiri described appears to be similar to what the Embassy and UNAMI were considering. See ref C. END COMMENT.)

¶8. (C) Hakim and Amiri are shopping this proposal across the political spectrum. Hakim told Ambassador that he had spoken with KRG President Ma'soud Barzani and President Jalal Talabani about this matter during his recent visit to

Kurdistan. He also had spoken with DPM Rafi al-Issawi, Iraqiyya leader Ayad Allawi, Mutlaq, and former Speaker Mashhadani (CIU) and said that none of them had voiced objections. Amiri said he spoke to VP Tariq al-Hashimi on January 17, planned to see the PM late on January 18, and the Kurdish leadership on January 19. When A/DCM briefed INA's proposal to Rikabi early on January 18, the PM's advisor seemed interested but worried that post-election vetting might cause voters to feel disenfranchised if their preferred candidates were disqualified, leading to violence. He also worried that, if the post-election appeals process took too long, it might delay government formation. (COMMENT: INA MP Qassim Daoud told poloff that Ayatollah Ali al-Sistani was extremely worried that the AJC's action would alienate Sunni voters and damage the credibility of the election. He reportedly sent his son Mohamed Redha to meet UN SRSG Melkert on January 16 to hear options for resolving the crisis, and planned to weigh in with political actors to resolve the situation. It is very likely that INA got this message loud and clear. END COMMENT.)

CHIEF JUSTICE ON LEGAL OPTIONS
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19. (C) FSC Chief Justice Medhat Mahmoud articulated to A/DCM on January 17 the difficult legal situation ahead in extricating Iraq from this political crisis. He questioned the legitimacy of the Chalabi-led AJC, but wouldn't definitively state that it lacked statutory authority to act. Medhat told A/DCM that shortly after the AJC law was passed in March 2008, the Higher Judicial Council, that he heads, appointed seven judges to the special Cassation (appeals) Chamber that is empowered to review AJC decisions. The COR did not act to approve them until January 11, 2010. Medhat said the seven-judge panel was a diverse group and representative of the population of Iraq. On January 17, he instructed the Chair, Saheb Jawad, to accept appeals of AJC actions, but to issue no rulings until the COR provides official notification of the approval of the Cassation Chamber members. He informed the judges that the Chamber could summon persons listed for De-Bathification or other witnesses to testify before it as it conducts its review. Medhat allowed, however, that a thorough legal vetting by the seven-judge panel was problematic in view of the limited time available. He concluded that a political solution, albeit one consistent with Iraqi law, was the best option under the circumstances.
HILL